

**Questions Generated from the Columbus Closure Project (CCP), Group 7 (June 27, 2003 – July, 2003)**

142. Work in JN-1 Hot Cell (HEC) were dressed-out (PPE) with supplied air bubble suits. Please provide reason(s) for this PPE requirement – isotope(s) of concern – airborne contamination level.

Answer: Available radiological surveys have been posted to the RFP Web Page. The RFP, Section C, Exhibit 1 provides a reference to the specific surveys that provide surface contamination levels. The RFP web site contains the existing Battelle Radiation Protection Program. In accordance with C.1.4., the offeror is responsible for establishing a radiological protection program to address the conditions of the work area(s). The specific radiological conditions in certain areas may change or may have changed due to ongoing work.

143. Would you please further describe what will occur during the “walkthrough” oral interviews?

Answer: Additional information regarding the walkthrough/oral interviews other than that provided in Section L, Provision L.22 of the RFP will be provided when the walkthrough is scheduled by the CO upon receipt of proposals, such as date(s), time(s), and logistics. As a reminder, the questions will not be provided in advance.

144. Is it expected that the SEB will ask the Key Resources specific questions about what they see during the walkthrough? Should we expect roughly the same process for the interviews as was used in the Miamisburg Closure Project oral interviews?

Answer: The questions asked of the Key Resources during the walkthrough/oral interview will focus on the topics/areas as stated in Section L, Provision L.22 of the RFP and be evaluated in accordance with Section M, Provision M.4 of the RFP. Offerors are expected to be familiar with the contents of the RFP and their proposed approach to accomplishing the work scope.

145. The MCP SEB’s; lack of guidance on what to expect in the interviews caused the offerors to spend very large amounts of money and time preparing for many different contingencies. It is hoped that the CCP will not repeat that experience and tell us exactly what to expect.

Answer: Additional information regarding the walkthrough/oral interviews other than that provided in Section L, Provision L.22 of the RFP will be provided when the walkthrough is scheduled by the CO upon receipt of proposals, such as date(s), time(s), and logistics. As a reminder, the questions will not be provided in advance. Offerors are expected to be familiar with the contents of the RFP and their approach to accomplishing the work scope.

146. In Section L, the Past Performance Cover Letter, states “(ICE Number)”, what does that refer to?

Answer: Use Funding Profile of \$57.7M in lieu of the “ICE Number”.

147. Reference: C.1.4, third paragraph; “The contractor shall obtain its own hazardous waste generator identification number before generating hazardous and mixed wastes.” Will the manifests for waste shipments made from the CCP be signed on behalf of DOE and/or BMI?

Answer: They will be signed by the contractor.

148. Provide a definitive list of monitoring wells, for the offerors.

Answer: There are approximately 36 wells; however, the actual number will change depending on how many additional wells are added during the FY03 groundwater program.

149. What is the cost estimate for a single visit and inspection by the IVC?

Answer: As a reference, for a single inspection of a building area including travel, 4 days on-site, 30-day lab analysis, and 30-day report generation period, is estimated at \$35,000-\$45,000 for IVC services. The cost varies based upon the time required on-site, number of samples and surveys, and the time required for report generation. Larger (less frequent) surveys covering larger work areas will cost more and smaller, more frequent surveys will cost less. The offeror is responsible to establish the parcels of work for survey and the frequency of the IVC inspections. The IVC can accommodate varied approaches, (i.e., larger overall completion surveys or numerous in-process inspections).

150. Section L.17(c)II. Technical Approach states, "The technical approach section shall not exceed 25 pages." Section L.17(c)II.(a) identifies a "Target of 15 pages." Section L.17(c)II.(b) identifies a "Target of 10 pages." We assume that the only limit in these clauses is the total number of pages (25) and that the "targets" for subsections (a) and (b) are suggestions, but are not restrictive. For example, an Offeror could use 18 pages for L.17(c)II.(a) and 7 pages for L.17(c)II.(b), and this would meet all page limit restrictions since the total would be 25 pages. Is our assumption correct?

Answer: Yes.

151. During our site tours, we have noted numerous items that were not identified in the solicitation. In contrast, we noted that numerous items identified in the solicitation are being removed or remediated by Battelle today, and will not be present when the contract is executed. Should we prepare our estimate and proposal based solely on the information provided in the solicitation, or should we modify our estimate and proposal based upon observations made during site tours.

Answer: Proposals and estimates prepared by offerors should be based upon the RFP.

152. Based upon the data provided in the solicitation, we developed a strategy for Demolition and Removal (D&R) of JN-1 Additions. Based upon observations made during our site visits, our initial approach will not work due to ongoing operations being performed by Battelle wherein contamination areas have been established without measures to prevent re-contamination of the building internals. Should we base our estimate and proposal on the facility as described in the solicitation, the facility as observed during site tours, or projected conditions at the time of contract award?

Answer: Proposals and estimates prepared by offerors should be based upon the RFP.

**THE FOLLOWING TWO QUESTIONS PERTAINING TO SMALL BUSINESS SET-ASIDE WILL BE ANSWERED WITH ONE RESPONSE:**

153. a. Part IV –Representations and Instructions, Section K.5 52.219.1 Small Business Program Representations indicates in paragraph (a)(1) The North American Industry Classification System (NAICS) code for the acquisition is 562910. Paragraph (b)(1) requires the offer to represent that it is or is not a small business concern.
- b. Part IV Section L – Instructions, Conditions, and Notices of Offerors in paragraph L.18(4)(f) identifies information the offeror must provide to allow a determination that it is in compliance with the limitations on Subcontracting (FAR 52.219-14) and requires, “If the offeror is a joint venture or is subcontracting, the offer must provide a copy of the joint venture agreement (if applicable) or a copy of any agreement with the subcontractor (if no written agreement provide a breakout of each element of work to be performed as stated in Section L.18(2); the size status of each member of each subcontractor; and if a Small Business, a Small Business Certification as stated in Section K.5 (FAR 52.219-1)...”

Please confirm that a Joint Venture comprised of a large business and one or more Small Businesses who meet the certification requirements as stated in Section K.5 (FAR 52.219-1) will meet the small business qualifications provided the Joint Venture, through its small business members, complies with 13 CFR 125.6 and Far Clause 52.219-14.”

154. If the joint venture has no employees, will the joint venture satisfy the 50% requirement of Title 13 C.F.R. section 125.6(a)(1)? That section states that in order to be awarded a small business set-aside contract, a small business concern must agree that the concern will perform at least 50% of the cost of the contract incurred for personnel with its own employees. It is this requirement that we want to clarify. If the joint venture uses the members employees will those employees be counted toward the joint venture’s requirement of meeting the 50% of the cost of the contract incurred for personnel with its own employees?

If the response to that is yes, does the fact that the joint venture itself may have some employees change that conclusion?

Answer:

**It is the Department of Energy's intent to make an award to a small business concern in accordance with the terms and conditions of the solicitation and applicable statutes and regulations. Unfortunately, the Department cannot offer specific advice on how companies should enter into various types of teaming arrangements and/or enter into arrangements for the performance of the work, regardless of whether the questions pertain to size status, including affiliation or limitations on subcontracting. The DOE, before submission of proposals, does not review such arrangements and determine whether a business arrangement complies with FAR 52.219-1 or FAR 52.219-4. Nor does the DOE have the authority to make size status determinations at any time. The SBA has exclusive authority to determine matters of small business size status. There are numerous permutations of teaming arrangements including subcontracting arrangements that make it impossible for the DOE to give anything but the following general advisory guidance. The following information is and has been publicly available.**

**I. First, the offeror must certify under FAR 52.219-1 that it is a small business and qualifies as a small business under the criteria set forth in 13 CFR Part 121 and the size standard set forth in the solicitation. If the offeror is not a small business concern, it is not eligible for award regardless of whether it is performing 50% of the total costs incurred for the contract with its own employees. As stated in the solicitation, the Small Business Administration (SBA) has the exclusive authority to make size status determinations, i.e. whether a business entity is small and thus, eligible for Government programs reserved for "small business" concerns such as the instant acquisition. The offerors, as demonstrated by the questions, are apparently aware and should have been aware of the SBA's regulations regarding affiliation as set forth in 13 CFR 121.103. Offerors that are entering into any type of arrangement with another company, be it a joint venture or subcontracting or any other arrangement, to propose on this solicitation will need to ensure that their arrangements are in conformity with all of the SBA's rules/regulations, including affiliation, in order to qualify as a small business concern.**

**As is obvious from a review of the SBA's rules/regulations/rulings/decisions, determining affiliation can become a very complicated question.**

**The SBA website is available at [www.sba.gov](http://www.sba.gov). As offerors are already aware, the website contains a section for asking questions. It also contains a section regarding frequently asked questions, which contains questions and answers regarding joint ventures and other affiliation questions. The website also contains a Guide to SBA's Definitions of Small Business from the Office of Size Standards ([www.sba.gov/size/indexguide.html](http://www.sba.gov/size/indexguide.html)), which contains definitions including the definition of affiliation, use of size standards for Government Procurement, etc. The SBA Website also contains the applicable legally controlling regulations and lists the area offices in SBA's Office of Government Contracting.**

**II. Under Limitations on Subcontracting, FAR 52.219-4, or 13 CFR 125.6(a)(1), the small business concern must agree that in the case of a contract for services (except construction), the concern will perform at least 50% of the cost of the contract incurred for personnel with its own employees. The definitions of the “cost of the contract” and “cost of contract performance incurred for personnel” are set forth in 13 CFR 125.6(b)(1) and (2). Cost of contract performance incurred for personnel is defined as “direct labor costs and any overhead which has only direct labor as its base, plus the concern’s General and Administrative rate multiplied by the labor cost.” Personnel is employees as defined/calculated in 13 CFR 121.106 entitled “How Does SBA calculate number of employees.” This section address, among other things, if a concern has not been in business for 12 months and the treatment of employees of former and recently acquired affiliates.**

**Paragraph (g) of 13 CFR 125.6, Prime contractor requirements (limitations on subcontracting) states “Where an offeror is exempt from affiliation under 121.103(f)(3) of this chapter and qualifies as a small business concern, the performance of work requirements set forth in this section apply to the cooperative effort of the team or joint venture, not its individual members.” Paragraph 121.103(f)(3) pertains to exclusion from affiliation and sets forth the circumstances when a joint venture or teaming arrangement of two or more business concerns may submit an offer as a small business for a Federal procurement without regard to affiliation when each concern is small under the applicable size standard. Under these circumstances, the performance of work requirements applies to the cooperative effort in determining compliance with the requirement that the small business concern perform at least 50% of the costs incurred for personnel with its own employees.**

**However, paragraph (f)(1) and (2) of 13 CFR 121.103 also addresses affiliation based on joint venture arrangements and when parties to a joint venture will be considered to be affiliated. Additionally under the Limitations on Subcontracting, 13 CFR 125.6 (e), the work to be performed by subsidiaries or other affiliates of a concern is not counted as being performed by the concern for purposes of determining whether the concern will perform the required percentage of work (which is at least 50% of the cost incurred for personnel with its own employees).**

**Offerors have been requested to provide copies of the agreements pertaining to their teaming arrangements/joint ventures in order to ensure that an award is made to a small business concern and that the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees.**

**Although the Department cannot offer an opinion on the questions asked whether the particular arrangement would result in a business entity or offeror that would be considered a small business concern by the SBA or the arrangement would constitute compliance with the limitations on subcontracting, potential offerors considering such arrangements should ensure that they understand the size standards, rules for determining affiliations, and 13 CFR 125.6 requirements regarding what is affiliation.**

**The above is advisory guidance only. Offerors are responsible for determining the arrangements that result in an award to a small business concern that performs at least 50% of the contract incurred for personnel with its own employees. The DOE has attempted to highlight specific regulatory requirements. However, offerors are responsible for reviewing all sections of the applicable regulations. The terms and conditions of the solicitation and the applicable statutes and regulations are controlling.**